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SUPREME COURT OF THE UNITED STATES.

No. 206.

THE UNITED STATES, APP'TS,

vs.

MARIANO G. VALLEJO.

APPEAL FROM THE DISTRICT COURT OF THE U. S. FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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GIDEON, Print.

Transcript of the Proceedings in case No. 249—*M. G. Vallejo, Claimant,* vs. *The United States, Defendant—for the place named "Ulupa."*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the Private Land Claims in the State of Cal'a.

Be it remembered, that on this thirty-first day of May, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of M. G. Vallejo, for the place named "Ulupa," was presented and ordered to be filed and docketed with No. 249, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *June* 2*d*, 1852.

In case No. 249, Mariano G. Vallejo, the deposition of José de la Rosa, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed:

(Vide page 5 of this Transcript.)

LOS ANGELES, *Oct.* 11, 1852.

The counsel for the claimant moved to place case No. 249 on the trial docket. Motion taken under advisement.

SAN FRANCISCO, *Feb.* 28, 1853.

On motion of the U. S. associate law agent, it was ordered that case No. 249 be placed on the trial docket.

SAN FRANCISCO, *March* 28, 1853.

Case No. 249 called; ordered to be placed at the foot of the trial docket.

SAN FRANCISCO, *July* 11, 1853.

Case No. 249, on motion of the U. S. law agent, was ordered to be placed on the trial docket.

SAN FRANCISCO, *Aug.* 2*d*, 1853.

Case No. 249 was called; by consent it was submitted without reading the papers or argument, and taken under advisement.

SAN FRANCISCO, *May* 16, 1854.

In the same case, Commissioner Alpheus Felch delivered the opinion of the board, rejecting the claim.

(Vide page 15 of this Transcript.)

SAN FRANCISCO, *Aug.* 15*th*, 1854.

In the same case, on motion of the U. S. law agent, the following order was made, to wit:

(Vide page 17 of this Transcript.)

Petition.

To the Honorable Commissioners to settle Private Land Claims in California:

The petitioner, Mariano Guadalupe Vallejo, respectfully shows: That on the 23d of November, A. D. 1844, Manuel Micheltorena, governor of California, by virtue of authority in him vested, granted to Miguel Alvarado the tract of land called Yulupa, situate in the present county of Sonoma, containing three leagues of land, more or less, with the boundaries described in the grant, a copy of which grant is submitted herewith marked A, with a translation marked B.

That the aforesaid grant was duly approved by the departmental assembly, on the 18th day of February, A. D. 1845, a copy of which approval is submitted herewith marked C, with a translation marked D.

That on the 20th day of February, A. D. 1849, the said Miguel Alvarado sold and conveyed to the petitioner the said tract of land, a copy of which conveyance is submitted herewith marked E, with a translation marked F.

That the said tract of land has not been surveyed by the surveyor general of the United States, but that its boundaries are fully described in the grant, and are well known.

That the said Alvarado and the petitioner have been since the year 1843, and the petitioner now is, in the quiet, peaceful, and undisputed possession of the said tract of land.

That he knows of no conflicting claim.

That he relies for confirmation of title upon the original papers, copies of which are submitted herewith, upon the records and minutes in the archives, and upon such other and further proofs as he may be advised are necessary.

Wherefore he prays the commissioners to confirm to him the aforesaid tract of land.

By his Att'ys,

HALLECK, PEACHY & BILLINGS.

Filed in office May 31st, 1852.

GEO. FISHER, *Secretary.*

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Deposition of Jose de la Rosa.

OFFICE OF THE BOARD OF LAND COMMISSIONERS FOR CALIFORNIA.

San Francisco, June 2d, 1852.

On this day, before Harry J. Thornton, one of the commissioners for ascertaining and settling private land claims in California, came José de la Rosa, a witness produced in behalf of the claimant, Mariano G. Vallejo, being No. 249 on the commissioners' docket, and was duly sworn, his evidence being given in the Spanish language and interpreted by Geo. Fisher, secretary.

The U. S. law agent present.

Questions by Claimant.

1st question. What is your name, age, and residence?

Answer. My name is José de la Rosa; my age is 61 years; I reside in Sonoma, and have lived there 21 years.

2d question. Do you know the rancho called Yulupa? if so, where is it situated, and what do you know about its occupation?

Answer. I know the rancho called Yulupa. It is situated about eight leagues from the town of Sonoma. Miguel Alvarado first occupied it, in 1843 or 1844. He had a house on it and cultivated a small garden. He also had a corral on it, and over 100 cattle and horses. The house is still standing. In 1849 he sold it to General Vallejo, who has occupied it since with cattle and horses.

3d question. Do you know the signatures of Manuel Micheltorena, Francisco Arce, Pio Pico, José Maria Covarrubias, Miguel Alvarado, José de Castaneda, and Salvador Vallejo; and if so, are the signatures to the papers before you, marked N, genuine?

Answer. I am acquainted with the signatures of Manuel Micheltorena, Francisco Arce, Pio Pico, José Maria Covarrubias, Miguel Alvarado, José de Castaneda, and Salvador Vallejo, having often seen them write. Their signatures to the papers before me marked N are genuine.

Questions by the Law Agent.

Question 1st. Is the whole or any part of the rancho Yulupa within ten leagues of the seacoast or any bay of the ocean; and if so, what part?

Answer. I believe the whole land of the said rancho is within the ten littoral leagues.

Question 2d. Was the land of that rancho occupied by or within the limits of any mission on November 21st, 1828?

Answer. It was neither occupied nor within the limits of any mission at the time of the date above mentioned.

3d question. When and by whom was the house built on the rancho, and of what description was it?

Answer. I do not know when or by whom it was built. It was of wood, and was fenced in.

The law agent U. S. present.

JOSÉ DE LA ROSA.

Sworn to and subscribed before me this 2d June, 1852.

HARRY J. THORNTON,
Commissioner.

Filed in office June 2d, 1852.

GEO. FISHER, *Secretary.*

En el pueblo de Sonoma, de la Alta California, á los veinte dias del mes de Febrero, del año de mil ochocientes cuarenta y nueve por y en consideracion á la suma de tres mil pesos en oro de placer que tengo recibidos en mano del S'or Mariano G. Vallejo digo que le vendo tres sitios de ganado mayor (tres leguas) que tengo concedidos por el gobierno departamental de este territorio aprovados por la asamblea de aquel cuyos linderos son los de Petaluma por el sur y sudeste, por al oueste con el rancho de Colate y norweste y norte con los de Santa Rosa y Guilucos. Cuyos tres sitios referidos lleban el nombre de Talupa y por el presente vendo, cedo y traspaso todos mis derechos al Señor Vallejo garantizandole la propiedad del referido terreno en la forma que las leyes previenen en semejantes casos, reservandome unicamente dos millas de tierra á mi eleccion en los linderos de Santa Rosa y Guilucos, siendo testigos los Sres. que forman, y ademas entrega los titulos legales, &c.

Sonoma, ut supra.

MIGUEL ALVARADO.

Testigo: J. DE CASTANARES.
Testigo: SALVADOR VALLEJO.

TERRITORY OF CALIFORNIA,
District of Sonoma.

Personally appeared before me, the undersigned, alcalde of said district, Miguel Alvarado, who is known to me to be the person whose name is subscribed to the within instrument of writing, as having executed the same and acknowledged the same to be the act and deed for the purpose within mentioned.

Given under my hand, at office at Sonoma, this 22d day of February, A. D. 1849.

G. W. BOGGS.

Sello Primero—Ocho Pesos.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

PABLO DE LA GUERRA.

MICHELTORENA.

Manuel Micheltorena, Gobernador Comand'te General é Ynspector de ambas Californias.

Por cuanto el ciudadano Miguel Alvarado, Mexicano por nacimiento ha solicitado p'a su beneficio personal y el de su familia el parage conocido con el nombre de Tulupa colindante con los ranchos de Petaluma, Colate, S'ta Rosa y los Guilucos practicadas previamente las diligencias y averiguaciones concernientes, segun lo dispuesto por leyes y reglamentos, usando de las facultades que me son conferidas a nombre de la nacion Mejicana he venido en concederle el terreno mencionado declarandole por las presentes letras confirmada la propiedad que obtuvo p'r titulo del Señor director de colonizacion de la frontera del norte Don Mariano G. Vallejo bajo las condiciones siguientes:

1a. Podra cercarlo sin perjudicar las travecias caminos y servidumbres lo disfrutara libre y esclusivamente destinandolo al usó ó cultivo que mas le acomode.

2a. Solicitara del juez respectivo que le de la posesion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondra a mas de las mojoneras, algunos arboles frutales ó silvestres de alguna utilidad.

3a. El terreno de que se hace menciones de tres sitios de ganado mayor poco mas ó menos segun esplica el diseño que corre agregado en el espediente respectivo. El juez que diere la posesion lo hara medir conforme a ordenanza quedando el sobrante que resulte a la nacion p'a los usos convenientes.

4a. Si contrabiniere a estas condiciones perdera su derecho al terreno y sera denunciable por otro. En concequencia mando que teniendose por firme y valedero el presente despacho se tome razon de el en el libro respectivo y se entregue al interesado p'a su resguardo y demas fines. Dado en la ciudad de Monterey a veinte y tres de Noviembre de mil ochocientos cuarenta y cuatro.

MAN'L MICHELTORENA.

FRAN'CO ARCES, *S'rio Int'o.*

Queda tomado razon de este despacho en el libro respectivo.

ARCES.

Sello Primero—Ocho Pesos.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey en el departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

PABLO DE LA GUERRA.

MICHELTORENA.

Pio Pico, Gobernador Interino del Departamento de las Californias.

La exma. asamblea departamental en sesion de hoy ha acordado lo siguiente. Se aprueba la concesion hecha por el sup'r gobierno

del departamento en titulo librado con f'ha 20 de D'bre del año pap'o a fabor del ciudadano Miguel Alvarado de tres sitios de ganado mayor en el parage conocido con el nombre de Talupa contiguo con la poblacion de Sonoma de entera conformidad con la ley de 18 de Agosto de 1824, y el art'o 5o del reglamento de 21 de No'bre de 1828. Y para resguardo de la parte de Don Miguel Alvarado lo hago asi saber.

Dado en la ciudad de Los Angeles a diez y ocho de Febrero de mil ochocientos cuarenta y cinco.

JOSÉ MARIA COVARRUBIAS.

PIO PICO.

Filed in office June 2d, 1852.

GEO. FISHER, *Sec'y.*

Translation of Conveyancc.

In the town of Sonoma, Upper California, on the twentieth day of the month of February, one thousand eight hundred and forty-nine, for and in consideration of the sum of three thousand dollars in placer gold, which I have received in hand from Señor Don Mariano G. Vallejo, I say that I sell to him three sitios de ganado mayor, (three leagues,) which I have granted to me by the departmental government of this territory, approved by the assembly of the same; the boundaries of which are those of Petaluma on the south and southeast, on the west the rancho of Cotate, and northwest and north by those of Santa Rosa and Guilicos.

Said three square leagues bear the name of Yulupa, and by this present I sell, cede and transfer all my rights to Señor Vallejo, guaranteeing to him the ownership of the said land in the form which the laws provide in such cases.

Reserving only two miles of land of my selection in the boundaries of Santa Rosa and Guilicos; the witnesses being those Señores who sign; and I also deliver the legal titles, &c.

Sonoma, date as above.

(Signed) MIGUEL ALVARADO.

Witnesses:

(Sgd.) J. DE CASTENADA,
(") SALVADOR VALLEJO.

TERRITORY OF CALIFORNIA,
District of Sonoma.

Personally appeared before me, the undersigned, alcalde of said district, Miguel Alvarado, who is known to me to be the person whose name is subscribed to the within instrument of writing, as having executed the same, and acknowledged the same to be his act and deed for the purposes therein mentioned.

Given under my hand at office, in Sonoma, this 22 day of February, A. D. 1849.

(Signed) L. W. BOGGS.

I certify the foregoing to be a true and correct translation from the original Spanish document on file in this office in case No. 249—M. G. Vallejo, for the place named Yulupa.

GEO. FISHER,
Secretary.

Filed in office May 31st, 1852.

GEO. FISHER,
Secretary.

Translation of Title and Approval.

Stamp First—Eight Dollars.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years 1844 and 1845.

(Signed) PABLO DE LA GUERRA.

(Signed) MICHELTORENA.

{ Seal of Monterey Custom-house. }

Manuel Micheltorena, Governor, Commanding General and Inspector of both Californias.

Whereas citizen Miguel Alvarado, a Mexican by birth, has, for his own personal benefit and that of his family, solicited the place known by the name of Yulupa, bounded by the ranchos of Petaluma, Cotate, Santa Rosa, and Los Guilicos, the proper measures and examinations being previously made as required by laws and regulations, using the powers conferred on me, in the name of the Mexican nation, I have granted to him the aforesaid land, confirming to him by these presents the ownership, which he obtained by title from the Señor director of colonization of the northern frontier, Don Mariano Vallejo, under the following conditions:

1. He may enclose it without prejudice to the crossings, roads, and servitudes, and enjoy it freely and exclusively, making such use or cultivation of it as may best suit him.

2. He shall request the proper magistrate to give him juridical possession in virtue of this title, by whom the boundaries will be marked out, in the limits of which, besides the bounds, he shall place some fruit or forest trees of some utility.

3. The land of which mention is made is of three square leagues, a little more or less, as shown by the map which goes attached to the respective expediente. The magistrate who may give the possession will cause it to be measured in conformity with the ordinance, leaving the surplus which may result to the nation for its convenient uses.

4. If he contravene these conditions, he shall lose his right to the land, and it will be subject to denouncement by another person.

In consequence, I order that the present title, being held as firm and valid, note be made of it in the proper book, and it be delivered to the person interested for his security and other purposes.

Given in the city of Monterey on the twenty-third of November, one thousand eight hundred and forty-four.

(Signed) MANUEL MICHELTORENA.

(Signed) FRANCISCO ARCE,
Secretary ad interim.

Note has been made of this title in the proper book.

(Signed) ARCE.

Stamp First—Eight Dollars.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years 1844 and 1845.

(Signed) PABLO DE LA GUERRA.

(Signed) MICHELTORENA.

{ Seal of Monterey Custom-house. }

Pio Pico, Governor ad interim of the Department of the Californias.

The most excellent departmental assembly, in session of this day, has decreed the following:

Approved the grant made by the superior government of the department in title issued with date December 30th of last year in favor of citizen Miguel Alvarado, for three square leagues, in the place known by the name Yulupa, near the town of Sonoma, in entire conformity with the law of August 18th, 1824, and article 5th of the regulation of November 21st, 1828.

And for the security of the party, Don Miguel Alvarado, I thus make it known.

Given in the city of Los Angeles on the eighteenth of February, one thousand eight hundred and forty-five.

(Signed) PIO PICO.

(Signed) JOSE MA. COVARRUBIAS, *Sec'y.*

I certify the foregoing to be a true and correct translation from the original Spanish document on file in this office in case No. 249—M. G. Vallejo, for the place named Yulupa.

GEO. FISHER,
Secretary.

Filed in office May 31st, 1852.

GEO. FISHER,
Secretary.

Opinion of the Board.

MARIANO G. VALLEJO
vs.
THE UNITED STATES.

For the place called Yulupa, in Sonoma county, containing three square leagues.

In support of this claim the petitioner has filed—

First. A grant made to Miguel Alvarado by Governor Micheltorena, dated November 23, 1844.

Second. A certificate of approval by the departmental assembly on the 18th February, 1845.

Third. A conveyance from said Alvarado to the present claimant, dated February 20th, 1849.

The genuineness of these documents is proved by the deposition of José de la Rosa, who also testifies that Alvarado first occupied the premises in 1843 or 1844, and had a house, corrals, and cattle on the place, and cultivated a small garden; that the house is now standing; that the place was sold to the present claimant in 1849, who has since occupied it with cattle and horses.

The land solicited is described in the grant as the place known as Yulupa, bounded by the ranchos of Petaluma, Cotate, Santa Rosa, and Los Guilicos.

In the third condition of the title paper, the land granted is described as three square leagues, a little more or less, as shown by the map which goes attached to the respective expediente.

The grantee is required by the conditions of his grant to apply to the proper magistrate to give him judicial possession of the land, to cause the three square leagues to be measured off in satisfaction of the grant, and to give it its proper limits and boundaries, the surplus of the entire tract remaining the property of the nation.

This is clearly not a grant of the entire premises bounded by the ranchos above mentioned, but of a portion of it, three square leagues in extent, to be located by judicial measurement.

This is the necessary meaning of the language of the grant. This meaning is also clear from the terms of the order of approval by the departmental assembly, where it is described at three square leagues in the place known by the name of Yulupa.

We have no means of knowing the quantity of land within the larger tract where the three leagues are to be located.

The map referred to in the grant for the description of the premises is not given in evidence, nor have we any proof whether the larger tract referred to contains three or thirty square leagues of land.

The irresistible inference from the proof given is that it contains more than the quantity granted, and the condition to obtain the segregation has never been complied with by the party.

Under the decisions of the Supreme Court, often referred to by this commission, the principles of which have been uniformly applied by us in such cases, the case must be rejected.

If the quantity of land within the mentioned limits was in fact less, or did not exceed the quantity granted, this was a fact which the claimant should have proved.

But in the absence of all evidence on the subject, this cannot be presumed. It would contradict the plain meaning of the grant and the resolution of approval.

Rejected.

Filed in office May 16th, 1854.

GEO. FISHER, *Secretary.*

Decree.

MARIANO G. VALLEJO vs. THE UNITED STATES. } 249.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the petitioner is not valid, and it is therefore hereby decreed that the same be rejected.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners.

Filed in office May 16th, 1854,

GEO. FISHER, *Secretary.*

Order.

And it appearing to the satisfaction of this board that the land hereby adjudicated is situated in the northern district of California, it is hereby ordered that two transcripts of the proceedings and of the decision in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the United States district court for the northern district of California, and the other be transmitted to the Attorney General of the United States.

Secretary's Certificate.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the Private Land Claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing seventeen pages, numbered from one to seventeen, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings, and of the decision of the said board, of the documentary evidence and of the testimony

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of the witnesses upon which the same is founded, on file in this office, in case No. 249 on the docket of the said board, wherein M. G. Vallejo is the claimant against the United States for the place known by the name of Ulupa.

In testimony whereof, I hereunto set my hand and affix my private seal. (not having a seal of office,) at San Francisco, California, this fourth day of December, A. D, 1854, and of the independence of the United States of America the seventy-ninth.

[L. S.]

GEO. FISHER, *Sec'y.*

Endorsed: Filed December 4th, 1854.

JOHN A. MONROE, *Clerk.*

Notice of Appeal.

District Court of the United States for the northern district of California.

MARIANO GUADALUPE VALLEJO, App't, vs. THE UNITED STATES, Respondent. } 249.

Whereas the commissioners constituted for the purpose of ascertaining and settling land claims in the State of California, by the act of Congress of the United States of America approved on the 3d day of March, 1851, entitled "An act to ascertain and settle the private land claims in the State of California," did, on the 16th day of May, 1854, by their decision and decree of that date, adjudge that the claim of the petitioner was not valid, and did therefore reject the same; and the said claimant being desirous that the said decision should be renewed by the district court of the United States for the northern district of California, and the land for which said claim is made lying within said northern district, the said claimant now files in the office of the clerk of said court this his notice of his intention to prosecute an appeal, as is provided by the 12th section of an act entitled "An act making appropriations for the civil and diplomatic expenses of the government for the year ending the thirtieth day of March, 1853, and for *the* purposes," approved August 31st, 1852.

B. S. BROOKS,
Att'y of Claimant and Appellant.

To the CLERK *of the Dist. Court of the U. S. for the Northern Dist. of California.*

Endorsed: Filed April 2d, 1855.

JOHN A. MONROE, *Clerk.*

Petition of Appeal.

United States District Court.

MARIANO G. VALLEJO vs. THE UNITED STATES. }

To the Honorable the District Court of the United States for the northern district of California.

The petition of Mariano G. Vallejo, app'lt, respectfully shows: That this is an appeal from the decision and decree of the board of commissioners to ascertain and settle the private land claims in the State of California, and is taken for the purpose of a review of the decision of said board. That the appellant, Mariano G. Vallejo, was the claimant before said board. That the transcript was filed in the office of the clerk of this court on the 4th day of December, A. D. 1854. That a notice of appeal by your petitioner was filed in the office of the clerk of this court on the 2d day of April, A. D. 1855. That the lands claimed are situated in the northern district of California, and within the jurisdiction of this honorable court. That your petitioner presented his petition to the said board on the 31st day of May, 1852, wherein he prayed the said commissioners to confirm to him the tract of land therein described called Yulupa, situate in the present county of Sonoma, containing 3 leagues of land, more or less, claiming under a grant made to Miguel Alvarado by Manuel Micheltorena, governor of California, on the 23d November, 1844, which petition was duly filed and numbered number 249 on the docket of said board, and afterwards the cause was submitted to the said board without argument upon the deposition of José De la Rosa taken in said cause, the original expediente with the approval of the departmental assembly, and the conveyance, duly acknowledged, of said Alvarado; and afterwards, on the 16th day of May, 1854, the said board delivered their opinion and decision rejecting the claim; all of which things will more fully appear by the record of the said proceedings, to which, and to the said petition, your petitioner prays leave to refer for a description of the said lands, and of your petitioner's title thereto.

Wherefore your petitioner prays that the said decision and decree of the said board may be reviewed, and the claim of petitioner to said lands and his title thereto confirmed.

B. S. BROOKS,
Att'y for Claimant.

Endorsed: Filed January 2d, 1856.
JOHN A. MONROE, *Esq'r.*
By WM. H. CHEVERS, *Deputy.*

Answer.

District Court of the United States, northern district of California.

THE UNITED STATES
vs.
MARIANO G. VALLEJO.

The United States, by their attorney, deny the validity of the said claim as set forth in the said petition; and further, that the

decree of the said commissioners be affirmed, and a decree herein entered, rejecting the said claim.

A. GLASSELL,
Asst. U. S. Attorney.

Endorsed: Filed February 15th, 1856.
JOHN A. MONROE, *Clerk.*

Deposition of Jasper O. Farrell.

United States District Court, northern district of California.

SAN FRANCISCO, *March 22d*, 1856.

M. G. VALLEJO
vs.
THE UNITED STATES.

On this day, before Wm. H. Chevers, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Jasper O. Farrell, a witness produced on behalf of the claimant in case No. 140, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 249 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present, B. S. Brooks, esq., for claimant, and the U. S. dist. attorney, by A. Glassell, esq.

Questions by Claimant.

What is your name, age, and place of residence?

Answer. Jasper O. Farrell; am 38 years of age, and reside in Sonoma county, Cal.

Question 2d. Do you know the tract of land called "Yulupe;" if yea, where is it situated, and how long have you known it?

Answer. I do; it is in Sonoma county; and have known it since the year 1847. I have surveyed the ranchos Colate, Petaluma, Agua Caliente. The land of "Yulupe" *lays* adjoining to and is partly bounded by the ranchos named; the other boundaries are the ranchos of Santa Rasa and Las Guilocos. I know those ranchos well. The land of Yulupa is situate between the ranchos above mentioned.

Question 3d. Who was in possession of Yulupa at that time, and how did the party on it claim to hold it?

Answer. In 1847 or 1848 one Roulette held a mill-site and a portion of redwood land under M. G. Vallejo; in 1848 or 1849, to the best of my belief, I saw the mill-dam and mill built by him; and since then I have been informed that M. G. Vallejo had sold redwood timber to different persons, cut from this place—the purchasers being my informers.

Question 4th. What is the distance across "Yulupa," from the Colate to the Guilocos?

Answer. About four miles; I think that is the average distance across the Yulupa. From the Petaluma northwest boundary to the Santa Rosa House is about ten miles. I do not know how far it is from the southeast boundary of the Santa Rosa rancho to the Santa Rosa House.

Question 5th. Were you in this country in the fall of 1844?

Answer. I was.

Question 6th. Did any political disturbance take place at or about that time; and if yea, what was it?

Answer. There did. The native Californians rebelled against the Mexican authorities, and tried to *dis*pose the Mexican governor, Micheltorena, and forced him to abdicate. Juan B. Alvarado and José Castro were the leaders in the north. The movement commenced in October or November, 1844. Micheltorena left San Pedro, California, for Mexico, in March or April, 1845. He marched from Salinas, about 12 miles from Monterey, in December, 1844, and arrived at Casseanga, which is about 15 miles from Los Angeles, in March, 1845. There a battle was fought, a treaty made, and Micheltorena left, as above stated.

Question 7th. Were you a government surveyor in 1847 and 1848?

Answer. I was; and as such surveyed some of the ranches above mentioned. The rancho of Yulapa is situated near the town of Sonoma, and may be easily segregated from the other lands adjoining.

Cross-examined by the U. S. Attorney.

I have no interest whatever in the event of this suit.

JASPER O. FARRELL.

Sworn to and subscribed, this 22d March, 1856.

WM. H. CHEVERS,
U. S. Commissioner.

Endorsed: Filed Nov. 24th, 1856.

JOHN A. MONROE, *Clerk.*
By WM. H. CHEVERS, *Deputy.*

Deposition of Julio Carrillo.

United States District Court, northern district of California.

SAN FRANCISCO, *April 4th*, 1856.

M. G. VALLEJO
vs.
THE UNITED STATES.

On this day, before Wm. H. Chevers, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Julio Carrillo, a witness produced on behalf of the claimant in case No. 140, being an appeal from

the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 249 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present, B. S. Brooks, esq., counsel for the claimant, and the U. S. dist. attorney, by Andrew Glassell, esq.

Questions by Cl't's Counsel.

What is your name, age, and place of residence?

Answer. Julio Carrillo; am nearly 30 years of age; and reside in Sonoma county, California.

Question 2d. How long have you resided in Sonoma county?

Answer. Since the year 1837.

Question 3d. Do you know the lands in Sonoma county called "Yulupa;" if yea, where are they situated, and how long have you known them?

Answer. I do. I have known said lands since 1838; it *lays* in Sonoma county, between the ranchos "Petaluma," "Colate," "Santa Rosa," and "Guilicos." It contains about three leagues, more or less, in my opinion. It is well known, and has been, (since I have known it,) by the name of "Yulupa." The boundaries thereof can be easily defined, in my opinion.

Question 4th. Did you know Miguel Alvarado; if yea, where did he live?

Answer. I did know him first in 1837, in Sonoma.

Question 5th. Do you know whether said Alvarado occupied said land of "Yulupa;" if yea, when to your knowledge did he first do so?

Answer. He did, and commenced the occupation thereof in 1842 or 1843; at this time he built a house on the place, a corral. He had cattle and horses on it; he had a small field enclosed. He continued to occupy the land until the time he sold to the present claimant, which I believe was in 1848 or 1849. The present claimant has since that time, and now does, occupy said land.

Cross-examined by U. S. Dist. Att'y.

Have no interest whatever in the event of this suit.

JULIO CARRILLO.

Sworn to and subscribed April 4th, 1856, before me.

WM. H. CHEVERS,
U. S. Commissioner.

Endorsed: Filed Nov. 24th, 1856.

JOHN A. MONROE, *Clerk.*
By WM. H. CHEVERS, *Deputy.*

Deposition of Cayetano Juares.

United States District Court, northern district of California.

SAN FRANCISCO, *Nov. 24th*, 1856.

M. G. VALLEJO
vs.
THE UNITED STATES.

On this day, before John A. Monroe, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Cayetano Juares, a witness produced on behalf of the claimant in case No. 140, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 249 on the docket of the said board of commissioners, and was duly sworn, and testified as follows, his evidence being interpreted by Edwin C. Palmer, a sworn interpreter.

Present, B. S. Brooks, esq., counsel for claimant, and Wm. Blanding, esq., U. S. district attorney.

Questions by Claimant's Counsel.

Question 1st. What is your name, age, and place of residence?

Answer. Cayetano Juares; 48 years of age; reside in Napa county, Cal'a.

Question 2d. Where did you reside in 1844?

Answer. I lived on my rancho in Napa county, where I have ever since resided.

Question 3d. Do you know anything of the grant of the rancho "Yulupa" to Alvarado; and if yea, when did you first hear of it?

Answer. I do; I first heard of it in 1844.

Question 4th. In whose possession has the rancho been since that time?

Answer. I have heard thal Miguel Alvarado has had the possession of it ever since. In 1845 Miguel Alvarado had a house and corral on the place.

Question 5th. Did you ever hold a public office in the district in which said rancho was situated; and if yea, what, when, and in what district was it?

Answer. In 1843 I was alcalde of the district of Sonoma, in which said rancho was situated.

Cross-examination waived.

CAYETANO JUARES.

Deposition of Salvador Vallejo.

Salvador Vallejo, a witness produced on behalf of the claimant, being duly sworn, deposed and says, his evidence being interpreted by Edwin C. Palmer, a sworn interpreter:

Question 1st. What is your name, age, and place of residence?

Answer. My name is Salvador Vallejo; 48 years of age; and reside in Napa county, California.

Question 2d. Where did you reside in 1844 and 1845?

Answer. In Sonoma county.

Question 3. Do you know anything of the grant of the rancho "Yulupa" to Alvarado; and if yea, when did you first hear of it?

Answer. In 1844 or 1845, Miguel Alvarado made a petition to the government for the rancho "Yulupa," and received a grant for it; I knew of it at that time.

Question 4th. In whose possession has the rancho been since that time?

Answer. At that time Miguel Alvarado had possession; since that time I do not know who has had possession of it. I know Miguel Alvarado sold it.

Question 5th. Did you ever hold a public office in the district of Sonoma; if yea, what office, and when?

Answer. I did. I held a civil and a military office some eight, ten, or fifteen years ago.

Question 6th. Who were the neighbors or the owners of the ranchos adjoining this rancho in question?

Answer. Gen'l Vallejo on one side; the "Colate ranch" was on *on* side, but I do not recollect whether Larkin or Castanada occupied it. Castanada is now in Mexico. Larkin never lived in the "Colate." The Guilicos rancho is on another side; it was occupied by John Wilson. He does not now reside anywhere in that vicinity. Santa Rosa rancho is on another side, and was occupied by Doña Maria Ygnacia Lopez de Carrillo; she is now dead; the name of the rancho occupied by M. G. Vallejo, on one side of "Yulupa," is Petaluma.

Cross-examination waived.

SALVADOR VALLEJO.

Deposition of Julio Carrillo.

Julio Carrillo, a witness produced on behalf of the claimant, being duly sworn, deposed and says:

Question 1st. What is your name, age, and place of residence?

Answer. Julio Carrillo; am 30 years of age; and reside in Sonoma county, California.

Question 2d. Where did you reside in 1844?

Answer. In Sonoma county, California, and have resided there ever since.

Question 3d. Do you know the rancho in that county called "Yulupa;" and if yea, who has occupied the said rancho?

Answer. I do. In 1844 or 1845, it was occupied by Miguel Alvarado. In 1848 or 1849, he quit the occupation of the land.

I heard at that time that General Vallejo bought the land, and he has been in the use and occupation of it ever since.

Question 4th. Do you know by what title Miguel Alvarado took possession of "Yulupa?"

Answer. I heard he got the title from the government in 1844 or 1845.

Question 5th. When did you first hear of the grant to Alvarado from the government to the rancho "Yulupa?"

Answer. I think in 1845. I heard it from some of the neighbors, and he told me himself.

Cross-examination waived.

JULIO CARRILLO.

Sworn to and subscribed before me, November 24th, 1856.

JOHN A. MONROE,
U. S. Commissioner.

Endorsed: Filed Nov. 24th, 1856.

JOHN A. MONROE, *Clerk.*
By WM. H. CHEVERS, *Deputy.*

Opinion by his honor Judge Ogden Hoffman.

MARIANO G. VALLEJO
vs.
THE UNITED STATES.

The claimant in this case has produced the original grant by Governor Micheltorena to Miguel Alvarado dated November 23d, 1844.

This grant was approved by the departmental assembly on the 18th February, 1845.

The genuineness of the grant is fully proved, and the occupation of and the cultivation of a portion of the land established by testimony.

The claim was rejected by the board for the reason that the tract granted was not segregated from the public domain.

The land is described in the grant as known as "Yulupa," and bounded by the ranchos of "Petaluma," "Colate," "Santa Rosa," and "Los Guilicos." Jasper O. Farrell, who was a government surveyor in 1847 or 1848, and as such surveyed several "ranchos" in the vicinity, states that he knows the latter well, and the rancho "Yulupa" is situated between them; that it is near the town of Sonoma, and can easily be segregated from the adjoining ranchos. Julio Carrillo testifies, that he has known the lands of Yulupa since 1838; that it lies between the ranchos of "Petaluma," "Colate," Santa Rosa," "Guilicos;" that it contains about 3 leagues, and is well known.

The witness further states, that Alvarado built a house on the land, and occupied it, with cattle and horses, in 1843 or 1844.

The evidence of these and other witnesses whose testimony has

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been taken in this court on appeal in our opinion establish the identity of the land granted to Alvarado, and removes the only objection urged to a confirmation of the claim.

A decree of confirmation must therefore be entered.

(Endorsed.)

Decree.

District Court of the United States, northern district of California.

THE UNITED STATES vs. MARIANO G. VALLEJO. } Decree No. 140. Stated Term, January 21st, 1857.

On appeal from the final decision of the board of commissioners to ascertain and settle private land claims in the State of California.

This cause came on to be heard at a stated term of the court on appeal from the final decision of the board of commissioners to ascertain and settle the private land claims in the State of California under an act of Congress approved on the 3d day of March, 1851, upon the transcript of the proceedings and decision of the said board of commissioners, and the papers and evidence on which the said decision was founded, and it appearing to the court that the said transcript has been duly filed according to law, and counsel for the respective parties having been heard, it is by the court here ordered, adjudged, and decreed, that the said decision be and the same is hereby vacated, annulled, and reversed. And it is further ordered, adjudged, and decreed, that the claim of the appellant is a good and valid claim, and that the same be and it hereby is confirmed to the claimant.

The land of which confirmation is made is of the extent of three (3) square leagues, a little more or less, and is known by the name "Yulupa," situated in the county of Sonoma, and is bounded by the ranchos of "Colate," "Petaluma," "Agua Celiente," "Santa Rosa," and "Los Guilicos," being the same land described in the grant issued to Miguel Alvarado by Governor Manuel Micheltorena on the 23d day of November, A. D. 1844, and of which the claimant has long enjoyed the possession.

OGDEN HOFFMAN,
U. S. District Judge.

Endorsed: Filed January 21, 1857.
JOHN A. MONROE, *Clerk.*
By WM. H. CHEVERS, *Deputy.*

Order granting Appeal.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Friday, the 27th day of

August, in the year of our Lord one thousand eight hundred and fifty-eight.

Present, the Honorable Ogden Hoffman, district judge.

THE UNITED STATES vs. M. G. VALLEJO. } D. C. 140—L. C. 249.

In this case, on application of P. Della Torre, esq., U. S. attorney, it is ordered that an appeal in behalf of the United States from the final decision of the court rendered in said cause at the December, 1856, term, be and the same is hereby granted, and that a certified transcript of the pleadings, evidence, depositions, and proceedings in the said cause be sent to the Supreme Court of the United States without delay; and the appellants are ordered to serve the usual citation, according to law.

OGDEN HOFFMAN,
U. S. Dist. Judge.

Endorsed: Filed August 27th, 1858.

W. H. CHEVERS, *Clerk.*

Citation.

The United States of America to Mariano Guadalupe Vallejo, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden in Washington on the first Monday in December next, pursuant to an order of appeal granted on the twenty-seventh day of August, A. D. 1858, by the district judge of the district court of the United States for the northern district of California, in a certain suit wherein the United States are plaintiffs and you are defendants, on appeal, to show cause, if any there be, why the decision in the said appeal mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness my hand and seal, at San Francisco, this 27th day of August, in the year of our Lord one thousand eight hundred and fifty-eight.

OGDEN HOFFMAN, [SEAL.]
U. S. Dist. Judge.

Due service of copy within citation by U. S. marshal admitted this 27th day of August, A. D. 1858.

B. S. BROOKS,
Att'y for Resp't.

Endorsed: Filed August 28th, 1858.

W. H. CHEVERS, *Clerk.*

I, W. H. Chevers, clerk of the district court of the United States for the northern district of California, do hereby certify, that the

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annexed and foregoing pages, numbered from one to thirty-seven, both inclusive, contain a full, true, and correct transcript of the record from the board of U. S. land commissioners, and of the pleadings, depositions, opinion, decree, order, and citation in said court, filed in this office in the case of The United States, appellants, v. Mariano G. Vallejo, appellee.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, this 31st day of August, A. D. [SEAL.] 1858, and of our independence the 83d.

W. H. CHEVERS, *Clerk.*

Filed 21st October, 1858.